

### REMARKS

1. After entry of this paper, claims 1-7, 9 and 11-35 are pending in the application. Reconsideration of this application is respectfully requested.
2. Claims 18-33 stand withdrawn from consideration.
3. Claims 1-9 and 1-17 stand rejected under 35 U.S.C. 102(a) as being anticipated by US Publication 2003/0231304 to Chan et al. (Chan).

Claim 1 has been amended to include the subject matter of claim 8 (now cancelled) and now recites,

. . . providing a fluid suspected of containing the at least one of the chemical and the related species;  
if present in the fluid, releasing the at least one of the chemical and the related species from the fluid into a gas phase;  
exposing the metal surface to the at least one of the chemical and the related species in the gas phase, the at least one of the chemical and the related species in the gas phase adsorbing to the metal surface;  
exciting the metal surface with light to cause the metal surface to produce the surface enhanced Raman scattering; and  
analyzing data obtained from the surface enhanced Raman scattering to determine the existence of the at least one of the chemical and the related species in the fluid. . . .

In contrast, Chan does not expressly or inherently describe, teach or suggest “releasing the at least one of the chemical and the related species from the fluid into a gas phase,” as now recited in claim 1.

For at least this reason, claim 1 and corresponding dependent claims 2-7, 9, and 11-17 are allowable over Chan.

In view of the foregoing, withdrawal of this rejection is respectfully requested.

4. Claim 34 was newly presented in the amendment and response filed on January 30, 2009. It appears that the Examiner did not examine this claim, as it is not discussed in the present Office Action. The Applicants respectfully request that the Examiner consider and examine this claim.

5. New claim 35 recites a method for detecting at least one of a chemical and a species related to the chemical, comprising the steps of:

providing a metal surface having at least one of a size and a shape that increases surface enhanced Raman scattering;  
treating the metal surface with a halide that causes the metal surface to be more surface-enhanced-Raman reactive toward the at least one of the chemical and the related species;  
exposing the metal surface to a fluid suspected of containing the at least one of the chemical and the related species, the at least one of the chemical and the related species adsorbing to the metal surface if present in the fluid;  
exciting the metal surface with light to cause the metal surface to produce the surface enhanced Raman scattering; and  
analyzing data obtained from the surface enhanced Raman scattering to determine the existence of the at least one of the chemical and the related species in the fluid.

It is respectfully submitted that the prior art cited of record fails to describe, teach or suggest the subject matter of new claim 35.

6. The Director is authorized to charge the fee for the petition for the three (3) month extension of time to Deposit Account No. 04-1679. The Director is also authorized to charge any payment required under 37 CFR 1.16 and any patent application processing fee under 37 CFR 1.17, associated with this paper, and/or credit any overpayment to Deposit Account No. 04-1679.

Respectfully submitted,

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